

106TH CONGRESS  
1ST SESSION

# S. 464

To meet the mental health and substance abuse treatment needs of  
incarcerated children and youth.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 1999

Mr. WELLSTONE (for himself, Mr. KENNEDY, and Ms. LANDRIEU) introduced  
the following bill; which was read twice and referred to the Committee  
on Health, Education, Labor, and Pensions

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## A BILL

To meet the mental health and substance abuse treatment  
needs of incarcerated children and youth.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Mental Health Juve-  
5       nile Justice Act”.

6       **SEC. 2. BLOCK GRANT FUNDING FOR TREATMENT AND DI-**  
7       **VERSION PROGRAMS.**

8       Subpart 3 of part B of title V of the Public Health  
9       Service Act (42 U.S.C. 290bb–31 et seq.) is amended by  
10      adding at the end the following:

1 **“SEC. 520C. GRANTS FOR STATE PARTNERSHIPS.**

2       “(a) IN GENERAL.—The Attorney General and the  
3 Secretary shall make grants to partnerships between State  
4 and local juvenile justice agencies and State and local  
5 mental health authorities (or appropriate children service  
6 agencies) in accordance with this section.

7       “(b) USE OF FUNDS.—A partnership described in  
8 subsection (a) that receives a grant under this section  
9 shall use such amounts for the establishment and imple-  
10 mentation of programs that address the service needs of  
11 juveniles who come into contact with the justice system  
12 (including facilities contracted for operation by State or  
13 local juvenile authorities) who have mental health or sub-  
14 stance abuse problems, by requiring the following:

15               “(1) DIVERSION.—Appropriate diversion of  
16 those juveniles from incarceration—

17                       “(A) at imminent risk of being taken into  
18 custody;

19                       “(B) at the time they are initially taken  
20 into custody;

21                       “(C) after they are charged with an of-  
22 fense or act of juvenile delinquency;

23                       “(D) after they are adjudicated delinquent  
24 but prior to case disposition; and

1           “(E) after they are released from a juve-  
2           nile facility for the purpose of attending after-  
3           care programs.

4           “(2) TREATMENT.—

5           “(A) SCREENING AND ASSESSMENT OF JU-  
6           VENILES.—

7           “(i) IN GENERAL.—Initial mental  
8           health screening shall be completed for all  
9           juveniles immediately upon entering the ju-  
10          venile justice system or a juvenile facility.  
11          Screening shall be conducted by qualified  
12          health and mental health professionals or  
13          by staff who have been trained by qualified  
14          health, mental health, and substance abuse  
15          professionals. In the case of screening by  
16          staff, the screening results should be re-  
17          viewed by qualified health and mental  
18          health professionals not later than 24  
19          hours after the screening.

20          “(ii) ACUTE MENTAL ILLNESS.—Juve-  
21          niles who suffer from acute mental dis-  
22          orders, who are suicidal, or in need of de-  
23          toxification shall be placed in or imme-  
24          diately transferred to an appropriate medi-  
25          cal or mental health facility. They shall be

1 admitted to a secure correctional facility  
2 only with written medical clearance.

3 “(iii) COMPREHENSIVE ASSESS-  
4 MENT.—All juveniles entering the juvenile  
5 justice system shall have a comprehensive  
6 assessment conducted and an individual-  
7 ized treatment plan written and imple-  
8 mented within 2 weeks. This assessment  
9 shall be conducted within 1 week for juve-  
10 niles incarcerated in secure facilities. As-  
11 sessments shall be completed by qualified  
12 health, mental health, and substance abuse  
13 professionals.

14 “(B) TREATMENT.—

15 “(i) IN GENERAL.—If the need for  
16 treatment is indicated by the assessment of  
17 a juvenile, the juvenile shall be referred to  
18 or treated by a qualified professional. A ju-  
19 venile who is currently receiving treatment  
20 for a mental or emotional disorder shall  
21 have treatment continued.

22 “(ii) PERIOD.—Treatment shall con-  
23 tinue until additional mental health assess-  
24 ment determines that the juvenile is no  
25 longer in need of treatment. Treatment

1 plans shall be reevaluated at least every 30  
2 days.

3 “(iii) DISCHARGE PLAN.—An incar-  
4 cerated juvenile shall have a discharge plan  
5 prepared when the juvenile enters the cor-  
6 rectional facility in order to integrate the  
7 juvenile back into the family and/or the  
8 community. This plan shall be updated in  
9 consultation with the juvenile’s family or  
10 guardian before the juvenile leaves the fa-  
11 cility. Discharge plans shall address the  
12 provision of aftercare services.

13 “(iv) MEDICATION.—Any juvenile re-  
14 ceiving psychotropic medications shall be  
15 under the care of a licensed psychiatrist.  
16 Psychotropic medications shall be mon-  
17 itored regularly by trained staff for their  
18 efficacy and side effects.

19 “(v) SPECIALIZED TREATMENT.—Spe-  
20 cialized treatment and services shall be  
21 continually available to a juvenile who—

22 “(I) has a history of mental  
23 health problems or treatment;

1                   “(II) has a documented history  
2                   of sexual offenses or sexual abuse, as  
3                   a victim or perpetrator;

4                   “(III) has substance abuse prob-  
5                   lems, health problems, learning dis-  
6                   abilities, or histories of family abuse  
7                   or violence; or

8                   “(IV) has developmental disabil-  
9                   ities.

10                  “(C) MEDICAL AND MENTAL HEALTH  
11                  EMERGENCIES.—All correctional facilities shall  
12                  have written policies and procedures on suicide  
13                  prevention. All staff working in correctional fa-  
14                  cilities shall be trained and certified annually in  
15                  suicide prevention. Facilities shall have written  
16                  arrangements with a hospital or other facility  
17                  for providing emergency medical and mental  
18                  health care. Physical and mental health services  
19                  shall be available to an incarcerated juvenile 24  
20                  hours per day, 7 days per week.

21                  “(D) CLASSIFICATION OF JUVENILES.—

22                         “(i) IN GENERAL.—Juvenile facilities  
23                         shall classify and house juveniles in living  
24                         units according to a plan that includes age,  
25                         gender, offense, special medical or mental

1 health condition, size, and vulnerability to  
2 victimization. Younger, smaller, weaker,  
3 and more vulnerable juveniles shall not be  
4 placed in housing units with older, more  
5 aggressive juveniles.

6 “(ii) BOOT CAMPS.—juveniles who are  
7 under 13 years old or who have serious  
8 medical conditions or mental illness shall  
9 not be placed in paramilitary boot camps.

10 “(E) CONFIDENTIALITY OF RECORDS.—  
11 Mental health and substance abuse treatment  
12 records of juveniles shall be treated as confiden-  
13 tial and shall be excluded from the records that  
14 States require to be routinely released to other  
15 correctional authorities and school officials.

16 “(F) MANDATORY REPORTING.—States  
17 shall keep records of the incidence and types of  
18 mental health and substance abuse disorders in  
19 their juvenile justice populations, the range and  
20 scope of services provided, and barriers to serv-  
21 ice. The State shall submit an analysis of this  
22 information yearly to the Department of Jus-  
23 tice.

24 “(G) STAFF RATIOS FOR CORRECTIONAL  
25 FACILITIES.—Each secure correctional facility

1 shall have a minimum ratio of no fewer than 1  
2 mental health counselor to every 50 juveniles.  
3 Mental health counselors shall be professionally  
4 trained and certified or licensed. Each secure  
5 correctional facility shall have a minimum ratio  
6 of 1 clinical psychologist for every 100 juve-  
7 niles. Each secure correctional facility shall  
8 have a minimum ratio of 1 licensed psychiatrist  
9 for every 100 juveniles receiving psychiatric  
10 care.

11 “(H) USE OF FORCE.—

12 “(i) WRITTEN GUIDELINES.—All juve-  
13 nile facilities shall have a written behav-  
14 ioral management system based on incen-  
15 tives and rewards to reduce misconduct  
16 and to decrease the use of restraints and  
17 seclusion by staff.

18 “(ii) LIMITATIONS ON RESTRAINT.—  
19 Control techniques such as restraint, seclu-  
20 sion, chemical sprays, and room confine-  
21 ment shall be used only in response to ex-  
22 treme threats to life or safety. Use of these  
23 techniques shall be approved by the facility  
24 superintendent or chief medical officer and  
25 documented in the juvenile’s file along with

1 the justification for use and the failure of  
2 less restrictive alternatives.

3 “(iii) LIMITATION ON ISOLATION.—

4 Isolation and seclusion shall be used only  
5 for immediate and short-term security or  
6 safety reasons. No juvenile shall be placed  
7 in isolation without approval of the facility  
8 superintendent or chief medical officer or  
9 their official staff designee. All cases shall  
10 be documented in the juvenile’s file along  
11 with the justification. A juvenile shall be in  
12 isolation only the amount of time necessary  
13 to achieve security and safety of the juve-  
14 nile and staff. Staff shall monitor each ju-  
15 venile in isolation once every 15 minutes  
16 and conduct a professional review of the  
17 need for isolation at least every 4 hours.  
18 Any juvenile held in seclusion for 24 hours  
19 shall be examined by a physician or li-  
20 censed psychologist.

21 “(I) IDEA AND REHABILITATION ACT.—

22 All juvenile facilities shall abide by all manda-  
23 tory requirements and time lines set forth  
24 under the Individuals with Disabilities Edu-

1 cation Act and section 504 of the Rehabilitation  
2 Act of 1973.

3 “(J) ADVOCACY ASSISTANCE.—

4 “(i) IN GENERAL.—The Secretary of  
5 Health and Human Services shall make  
6 grants to the systems established under  
7 part C of the Developmental Disabilities  
8 Assistance and Bill of Rights Act (42  
9 U.S.C. 6041 et seq.) to monitor the mental  
10 health and special education services pro-  
11 vided by grantees to juveniles under sub-  
12 paragraphs (A), (B), (C), (H), and (I),  
13 and to advocate on behalf of juveniles to  
14 assure that such services are properly pro-  
15 vided.

16 “(ii) APPROPRIATION.—The Secretary  
17 of Health and Human Services will reserve  
18 no less than 3 percent of the funds appro-  
19 priated under this section for the purposes  
20 set forth in clause (i).

21 “(c) PARTNERSHIPS.—

22 “(1) IN GENERAL.—Any partnership desiring to  
23 receive a grant under this section shall submit an  
24 application at such time, in such manner, and con-

1       taining such information as the Attorney General  
2       and the Secretary may prescribe.

3           “(2) CONTENTS.—In accordance with guide-  
4       lines established by the Attorney General and the  
5       Secretary, each application submitted under para-  
6       graph (1) shall—

7           “(A) set forth a program or activity for  
8       carrying out one or more of the purposes speci-  
9       fied in this section and specifically identify each  
10      such purpose such program or activity is de-  
11      signed to carry out;

12          “(B) provide that such program or activity  
13      shall be administered by or under the super-  
14      vision of the applicant;

15          “(C) provide for the proper and efficient  
16      administration of such program or activity;

17          “(D) provide for regular evaluation of such  
18      program or activity;

19          “(E) provide an assurance that the pro-  
20      posed program or activity will supplement, not  
21      supplant, similar programs and activities al-  
22      ready available in the community; and

23          “(F) provide for such fiscal control and  
24      fund accounting procedures as may be nec-  
25      essary to ensure prudent use, proper disburse-

1           ment, and accurate accounting of funds receiv-  
2           ing under this section.

3           “(d) AUTHORIZATION OF APPROPRIATIONS.—

4           “(1) IN GENERAL.—There are authorized to be  
5           appropriated from the Violent Crime Reduction  
6           Trust Fund, \$500,000,000 for fiscal years 1999,  
7           2000, 2001, 2002, and 2003 to carry out this sec-  
8           tion.

9           “(2) ALLOCATION.—Of amounts appropriated  
10          under paragraph (1)—

11           “(A) 35 percent shall be used for diversion  
12          programs under subsection (b)(1); and

13           “(B) 65 percent shall be used for treat-  
14          ment programs under subsection (b)(2).

15          “(3) INCENTIVES.—The Attorney General and  
16          the Secretary shall give preference under subsection  
17          (b)(2) to partnerships that integrate treatment pro-  
18          grams to serve juveniles with co-occurring mental  
19          health and substance abuse disorders.

20          “(4) WAIVERS.—The Attorney General and the  
21          Secretary may grant a waiver of requirements under  
22          subsection (b)(2) for good cause.”.

1 **SEC. 3. INITIATIVE FOR COMPREHENSIVE, INTERSYSTEM**  
 2 **PROGRAMS.**

3 Subpart 3 of part B of title V of the Public Health  
 4 Service Act (42 U.S.C. 290bb–31 et seq.) is amended by  
 5 adding at the end the following:

6 **“SEC. 520D. INITIATIVE FOR COMPREHENSIVE, INTERSYS-**  
 7 **TEM PROGRAMS.**

8 “(a) IN GENERAL.—The Attorney General and the  
 9 Secretary, acting through the Director of the Center for  
 10 Mental Health Services, shall award competitive grants to  
 11 eligible entities for programs that address the service  
 12 needs of juveniles and juveniles with serious mental ill-  
 13 nesses by requiring the State or local juvenile justice sys-  
 14 tem, the mental health system, and the substance abuse  
 15 treatment system to work collaboratively to ensure—

16 “(1) the appropriate diversion of such juveniles  
 17 and juveniles from incarceration;

18 “(2) the provision of appropriate mental health  
 19 and substance abuse services as an alternative to in-  
 20 carceration and for those juveniles on probation or  
 21 parole; and

22 “(3) the provision of followup services for juve-  
 23 niles who are discharged from the juvenile justice  
 24 system.

25 “(b) ELIGIBILITY.—To be eligible to receive a grant  
 26 under this section an entity shall—

1           “(1) be a State or local juvenile justice agency,  
2           mental health agency, or substance abuse agency;

3           “(2) prepare and submit to the Secretary an  
4           application at such time, in such manner, and con-  
5           taining such information as the Secretary may re-  
6           quire, including—

7                   “(A) an assurance that the applicant has  
8                   the consent of all entities described in para-  
9                   graph (1) in carrying out and coordinating ac-  
10                  tivities under the grant; and

11                  “(B) with respect to services for juveniles,  
12                  an assurance that the applicant has collabo-  
13                  rated with the State or local educational agency  
14                  and the State or local welfare agency in carry-  
15                  ing out and coordinating activities under the  
16                  grant;

17           “(3) be given priority if it is a joint application  
18           between juvenile justice and substance abuse or  
19           mental health agencies; and

20           “(4) ensure that funds from non-Federal  
21           sources are available to match amounts provided  
22           under the grant in an amount that is not less  
23           than—

1           “(A) with respect to the first 3 years  
2           under the grant, 25 percent of the amount pro-  
3           vided under the grant; and

4           “(B) with respect to the fourth and fifth  
5           years under the grant, 50 percent of the  
6           amount provided under the grant.

7           “(c) USE OF FUNDS.—

8           “(1) INITIAL YEAR.—An entity that receives a  
9           grant under this section shall, in the first fiscal year  
10          in which amounts are provided under the grant, use  
11          such amounts to develop a collaborative plan—

12          “(A) for how the guarantee will institute a  
13          system to provide intensive community  
14          services—

15                 “(i) to prevent high-risk juveniles  
16                 from coming in contact with the justice  
17                 system; and

18                 “(ii) to meet the mental health and  
19                 substance abuse treatment needs of juve-  
20                 niles on probation or recently discharged  
21                 from the justice system; and

22          “(B) providing for the exchange by agen-  
23          cies of information to enhance the provision of  
24          mental health or substance abuse services to ju-  
25          veniles.

1           “(2) 2–5TH YEARS.—With respect to the sec-  
2           ond through fifth fiscal years in which amounts are  
3           provided under the grant, the grantee shall use  
4           amounts provided under the grant—

5                   “(A) to furnish services, such as assertive  
6                   community treatment, wrap-around services for  
7                   juveniles, multisystemic therapy, outreach, inte-  
8                   grated mental health and substance abuse  
9                   treatment, case management, health care, and  
10                  transitional and independent living services,  
11                  mentoring programs, home-based services, and  
12                  provision of appropriate after school and sum-  
13                  mer programing;

14                  “(B) to establish a network of boundary  
15                  spanners to conduct regular meetings with  
16                  judges, provide liaison with mental health and  
17                  substance abuse workers, share and distribute  
18                  information, and coordinate with mental health  
19                  and substance abuse treatment providers, and  
20                  probation or parole officers concerning provision  
21                  of appropriate mental health and drug and alco-  
22                  hol addiction services for individuals on proba-  
23                  tion or parole;

24                  “(C) to provide cross-system training  
25                  among police, corrections, and mental health

1 and substance abuse providers with the purpose  
2 of enhancing collaboration and the effectiveness  
3 of all systems;

4 “(D) to provide coordinated and effective  
5 aftercare programs for juveniles with emotional  
6 or mental disorders who are discharged from  
7 jail, prison, or juvenile facilities;

8 “(E) to purchase technical assistance to  
9 achieve the grant project’s goals; and

10 “(F) to furnish services, to train personnel  
11 in collaborative approaches, and to enhance  
12 intersystem collaboration.

13 “(3) DEFINITION.—In paragraph (2)(B), the  
14 term ‘boundary spanners’ means professionals who  
15 act as case managers for juveniles with mental dis-  
16 orders and substance abuse addictions, within both  
17 justice agency facilities and community mental  
18 health programs and who have full authority from  
19 both systems to act as problem-solvers and advocates  
20 on behalf of individuals targeted for service under  
21 this program.

22 “(d) AREA SERVED BY THE PROJECT.—An entity re-  
23 ceiving a grant under this section shall conduct activities  
24 under the grant to serve at least a single political jurisdic-  
25 tion.

1       “(e) AUTHORIZATION OF APPROPRIATIONS.—There  
 2 shall be made available to carry out the section, not less  
 3 than 10 percent of the amount appropriated under section  
 4 1935(a) for each of the fiscal years 1999 through 2003.”.

5       **SEC. 4. INTERAGENCY RESEARCH, TRAINING, AND TECH-**  
 6                                   **NICAL ASSISTANCE CENTERS.**

7       (a) GRANTS OR CONTRACTS.—The Secretary of  
 8 Health and Human Services, acting through the Sub-  
 9 stance Abuse and Mental Health Services Administration  
 10 and in consultation with the Juvenile Justice and Delin-  
 11 quency Prevention Office and the Justice Assistance Bu-  
 12 reau, shall award grants and contracts for the establish-  
 13 ment of 4 research, training, and technical assistance cen-  
 14 ters to carry out the activities described in subsection (c).

15       (b) ELIGIBILITY.—To be eligible to receive a grant  
 16 or contract under subsection (a), an entity shall—

17               (1) be a public or nonprofit private entity; and

18               (2) prepare and submit to the Secretary of  
 19 Health and Human Services an application, at such  
 20 time, in such manner, and containing such informa-  
 21 tion as the Secretary may require.

22       (c) ACTIVITIES.—A center established under a grant  
 23 or contract under subsection (a) shall—

24               (1) provide training with respect to state-of-the-  
 25 art mental health and justice-related services and

1       successful mental health and substance abuse-justice  
2       collaborations, to public policymakers, law enforce-  
3       ment administrators, public defenders, police, proba-  
4       tion officers, judges, parole officials, jail administra-  
5       tors and mental health and substance abuse provid-  
6       ers and administrators;

7           (2) engage in research and evaluations concern-  
8       ing State and local justice and mental health sys-  
9       tems, including system redesign initiatives, and dis-  
10      seminate information concerning the results of such  
11      evaluations;

12          (3) provide direct technical assistance, including  
13      assistance provided through toll-free telephone num-  
14      bers, concerning issues such as how to accommodate  
15      individuals who are being processed through the  
16      courts under the Americans with Disabilities Act of  
17      1990 (42 U.S.C. 12101 et seq.), what types of men-  
18      tal health or substance abuse service approaches are  
19      effective within the judicial system, and how commu-  
20      nity-based mental health or substance abuse services  
21      can be more effective, including relevant regional,  
22      ethnic, and gender-related considerations; and

23          (4) provide information, training, and technical  
24      assistance to State and local governmental officials  
25      to enhance the capacity of such officials to provide

1        appropriate services relating to mental health or  
2        substance abuse.

3        (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
4        authorized to be appropriated, \$4,000,000 for each fiscal  
5        year to carry out this section.

○